

Memorandum

TO: Vocational Rehabilitation Counselors
CC: Vocational Rehabilitation Specialists, Kris Peterson
FROM: Glenn Morton
DATE: June 10, 2004
SUBJECT: Meeting Announcement & Results of May 21, 2004 Meeting

The next informal meeting between court staff and certified vocational rehabilitation counselors is scheduled for Friday, June 25, 2004, at 2:00 pm. The meeting will be held in the conference room of the court's offices at 525 South 13th street in Lincoln.

The following are the results of the discussions at the May 21, 2004 meeting.

1. Previous meeting outcomes. The memorandum from Glenn Morton dated May 18, 2004 documenting the outcome of the meeting on April 23, 2004 was raised for discussion. At the request of court staff, there was one additional change regarding testing for an ESL plan. This clarified that the testing must be completed during development of the plan, regardless of whether BEST or other standardized assessment is used. This is now consistent with the requirements for other plans, as shown below. The following represents the updated and complete outcome of the discussions regarding testing.

Testing:

- i. Required placement tests (standard requirements of the Nebraska Department of Education):

GED: TABE, including scores and grade level interpretation. Must be completed during development of the plan.

ESL: BEST, including scores and functioning educational level interpretation, or other standardized assessment utilized by the ESL training provider. Must be completed during development of the plan.

Post Secondary Training (community college): COMPASS and/or ASSET if required for admission, including scores and identification of developmental/remedial courses. Must be completed during development of the plan.

- ii. Testing must relate to the proposed plan.
- iii. Narrative interpretation of all testing results must be provided. Do not provide raw data only.

iv. Aptitude testing, interpretation, and/or other supporting documentation (e.g. achievement and general cognitive ability testing) must support the employee's ability to get through the program and do the job.

v. Significant variances between test results and the proposed goal must be explained.

2. NWCC ethical standards. There was further discussion regarding the draft changes to NWCC ethical standards as circulated with the outcome memorandum from the April 23rd meeting. Further changes were discussed and agreed to, and these have been incorporated into the attached final draft. Any further comments regarding this draft should be submitted to Glenn Morton prior to the next meeting on June 25, 2004. Comments will then be reviewed at that meeting and further action will be considered. Once the revised standards have been approved by the court (likely after the next meeting) they will be sent to all certified counselors with an acknowledgement form that must be signed by the counselor and returned to the court.

3. Cumulative Grade Point Average. There was discussion regarding an e-mail sent by Kris Peterson to all certified counselors on May 13, 2004 requesting that counselors and clients work together to make sure the cumulative grade point average is included in the term grade report, which is due by the end of the first class day of the new term. This is necessary in order to document satisfactory progress overall and to avoid cancellation of an authorization in error. There were no questions or concerns about the e-mail.

4. Plan of study. Court staff had requested that this issue be moved up on the agenda, and for discussion purposes proposed the following definition: "A term by term projection of courses to be taken for the entire course of the program." The consensus of the group, after significant discussion, was that in the future the court will require a plan of study for all formal retaining plans that involve post secondary education (e.g., certificate or degree programs). The definition of "plan of study" as shown above was accepted by the group. It was recognized, however, that a plan of study submitted with a proposed plan is a tentative projection of the expected course work (as stated in the definition), and that adjustments may be needed as the plan progresses.

5. Hybrid plans. Discussions on this item continued from the previous meeting. The court's position has been that the specialists will generally not approve ESL/JP or GED/JP concurrently, but will consider this on a case by case basis with appropriate justification. The questions for discussion were whether such hybrid plans should be allowed at all, and if so under what circumstances.

After significant discussion the group was unable to reach a consensus on this issue. However, the majority, including all of the court's specialists, were of the opinion that hybrid plans are not appropriate under any circumstances. This is based largely on section 48-162.01(3) and NWCC Rule 44,B which establish the priority system for developing and evaluating plans, and on the provision of section 48-162.01(3) which limits the employee's entitlement to such services "as may be reasonably necessary to restore him or her to suitable employment."

It was recognized that there may be circumstances in which an employee could get some kind of

work even though an ESL plan is in progress, or in which an employee could be working on a GED while engaged in a job placement plan. However, this was felt to be an inappropriate “mixing” of priorities, contrary to section 48-162.01(3) and Rule 44,B, and while such additional activities may “enhance employability” or “increase the likelihood of employment”, this was felt to be an insufficient justification for entitlement to services under section 48-162.01(3). Therefore, in the future the court’s specialists will no longer approve hybrid plans involving more than one priority.

[Note: It was also recognized that there is likely nothing to prevent a counselor from voluntarily providing services in connection with such additional activities, or to prevent an insurer from voluntarily paying for such services, even though payments from the trust fund would not be permitted.]

6. Future agenda items. The following topics will be addressed at future meetings, beginning with the next meeting on June 25th.
 - a. Previous meeting outcomes. Review the “outcomes” memorandum from the previous meeting for corrections, deletions, or additions.
 - b. ESL - Classwork vs. Tutoring. The court’s position is that tutoring is for supplementing ESL classes, to be used concurrently with classes, and should not be the only component of a plan. What is the appropriate number of hours of class work versus tutoring?
 - c. Labor market information. The courts’ position is that a full survey including documentation of each employer contacted is not necessary but may be requested depending on the case.
 - d. Transferable skills.
 - e. Reporting to the court. What type of reporting to the court is appropriate on a regular basis? Rule 37,B addresses monthly reports, Rule 37,D addresses notice to the court if an employee fails to make satisfactory progress or discontinues participating in an approved plan, and Rule 37,E addresses notification to the court upon termination of services or case closure. Are there questions regarding the current requirements for these reports and are changes needed? What type of reporting or updating is it appropriate for the court’s specialists to request in monitoring a plan?
 - f. Job goals for ESL/GED/ABE. The court’s current policy for ESL and GED is that vocational goals are not mandatory since the focus is on general employability, and that if ESL or GED is a first step in formal retraining the counselor may submit one consolidated plan or two separate plans at the same time. The court’s current position for ABE or remedial programs is that they may be a component of a retraining plan but do not constitute retraining in and of themselves. Should the policies for ESL,GED, and ABE be the same and why or why not? Is the court’s current policy regarding ESL and GED consistent with statute section 48-162.01(3)(e) and Rules 44,B,3,e and 44,C?

g. Services outside a plan. Under what circumstances, if any, is it appropriate for a counselor to provide vocational rehabilitation services outside the context of an approved plan? If it is appropriate, what are the notice and reporting requirements? Rule 36,B provides that all voluntary vocational rehabilitation plans must have prior approval of the court's vocational rehabilitation specialists. Is this a question of what services are and are not part of a vocational rehabilitation plan, and if so what services are and are not in fact part of a plan? Is it acceptable for a counselor to provide job placement services before or after the date of an approved plan?